



CLARENCE TRUSTEES

WILLS, TRUSTS, & PROBATE



The Role of The Executor

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THE ROLE OF THE EXECUTOR

When writing their will, many people nominate their loved ones to administer their estate once they have gone — a role more commonly known as an ‘Executor’.

Many people feel flattered to be nominated as an Executor but are also left scratching their heads as to what this role entails.

Quite often family members who are appointed as Executors have no idea of the responsibility involved and often don’t even know they have been appointed until the testator passes away.

As an Executor (or Administrator) you are legally responsible for administering the estate according to the will or the Laws of Intestacy.

If you take on this role you are responsible for everything you do as Executor/Administrator or fail to do. The role of Executor/Administrator carries a lot of administrative, taxation and legal responsibility.

This simple guide outlines the different responsibilities of an Executor and gives an insight as to what is expected of the role.

1. WHAT ARE THE EXECUTOR’S DUTIES ?

The moment the testator dies, the role of the Executor begins and there are some very important initial duties:

SECURING THE ASSETS

The Executor is now legally responsible for the assets of the testator. He must ensure any property is safeguarded so that the inheritance of the beneficiaries is safeguarded (which may include changing the locks on the house) and deciding whether or not to leave on or switch off any utilities.

INSURING THE ASSETS

The Executor must ensure that the house and contents are insured. Any insurance held in the name of the testator will cease to be effective from the date of death.

ARRANGING THE FUNERAL

It is the Executor's duty to arrange the funeral, however it will very often be arranged by the family. The testator will usually state in their will what their wishes are for their funeral.

ASSESSING THE ESTATE

The Executor must assess the value of the estate which includes considering both the assets and the liabilities of the estate. It will include:

- *Valuing the house*
- *Assessing capital asset values*
- *Determining possessions and their values*
- *Identifying financial services products such as pensions (and what death benefits may be payable) and life assurance (and whether the policy has been written in trust or not).*
- *Liabilities such as utilities, loans, credit cards, etc.*

INHERITANCE TAX

The Executor will need to work out whether there will be any Inheritance Tax (IHT) due on the estate and will need to fill in the appropriate IHT forms. These forms will then either need to be submitted to the Probate Office with the probate forms or to HMRC with payment of the IHT – depending on the size and nature of the estate.

(You can find out more about the IHT forms in our separate guide entitled "The Basics of Probate").

GRANT OF PROBATE

After establishing and dealing with the IHT position, the Executor will then need to apply to the probate office for a Grant of Probate.

We explain briefly what probate is in the section below entitled "What is Probate?" but for a fuller explanation please refer to our separate guide entitled "The Basics of Probate".

In summary, however, the Grant of Probate gives the Executor permission to collect the assets, pay off any liabilities and distribute the assets to the beneficiaries.

COLLECT THE ASSETS

Once the Executor has received the Grant of Probate he can collect all the assets and money due to the deceased's estate. This may include selling the family home, selling cars, selling

other valuable possessions, recovering capital assets, and managing life assurance and pension matters.

PAYING DEBTS

Debts that may need to be paid from the estate by the Executors may include the mortgage on the house, any credit card debts or loans, utilities, and any other debts there may be on the estate.

PREPARATION OF ESTATE ACCOUNTS

Since 2007 when the unused IHT Nil Rate Band (NRB) could be transferred to the surviving spouse, it has been essential to prepare accounts for the estate. The Executor should distribute these accounts to the other Executors (if there are any) and also to the residuary beneficiaries of the estate for sign-off.

DISTRIBUTION OF THE ESTATE

Once the assets have been collected, the liabilities of the estate cleared, and the estate accounts agreed, the Executor may commence distributing the estate in accordance with the testator's wishes as described in their will.

2. WHAT IS PROBATE ?

When someone passes away, the Executor(s) must obtain the legal right to deal with the deceased's property, money and possessions (i.e. their 'estate').

In England and Wales, you do this by applying to the Probate Office for a "Grant of Representation" (known as probate). A Grant of Representation can sometimes be known as a 'Grant of Probate', 'Letters of Administration' or 'Letters of Administration with a Will'.

This process is called 'Confirmation' in Scotland and 'Grant of Probate' in Northern Ireland.

If you are an Executor you can apply for probate yourself. Alternatively you can use a solicitor or another person or company licensed to provide probate services such as a bank, financial advisor or specialist probate company like Clarence Trustees.

A Grant of Representation may not be needed if the estate passes to the surviving spouse/civil partner because it was held in joint names (e.g. a savings account) or doesn't include land, property or shares.

To find out in more detail about “Probate” please refer to our separate guide entitled “The Basics of Probate.”

3. HOW LONG WILL I BE AN EXECUTOR ?

Being an Executor will involve a lot of work and responsibility and this is likely to go on for months and in some cases (depending on the complexity of the estate), even years.

The legal responsibility you will take on by being an Executor has no time limit!

4. DON'T WANT TO BE AN EXECUTOR ?

It is more than likely that you are named as an Executor because of your close relationship with the Testator. With this in mind, you will need to think about how being an Executor will affect you especially during a time of bereavement and grief.

If you have been made an Executor in a Will and you don't want to do it when the time comes, then help is at hand.

You can give up your right to act as Executor by signing a ‘Deed of Renunciation’ - but only before you take any action.

If you do carry out anything which could be deemed as part of an Executor's duty then you are stuck with the job. However, you could delegate it to a professional and the estate will pay their fees. This way you retain control but don't have to do the work or worry about the responsibility.

5. HOW WE CAN HELP

Probate is, even in the case of fairly small estates, still a complicated process.

There is a significant burden of responsibility on the Executors who are unlikely to understand the seriousness of the job they have to do and the consequences of getting it wrong. This may be especially the case if the will involves trusts.

Clarence Trustees provides a fast, efficient and modern probate service.

We quote a fixed fee in advance so that you will know exactly where you stand. Further, our fees are not calculated as a percentage of the estate (which is the way most solicitors and banks calculate them). Rather our fees are based on the amount of work that needs doing.

By using Clarence Trustees for probate you can be confident that the fee your loved one's estate will pay will be fair and proportionate – and fixed in advance.

Please contact us now about our probate service.



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